

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5012 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

INDIAN EXPRESS NEWSPAPERS (BOMBAY) PVT LTD

Versus

UMESH B AMBEGAOKAR

Appearance:

MR NB BUCH for Petitioner

MR KV GADHIA for Respondent No. 1

None present for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/96

ORAL JUDGMENT

Heard learned counsel for the parties. Challenge is made by the petitioner to the order of the First Labour Court at Ahmedabad made in REF Application No.1551/80 dated 11th August 1983.

2. The respondent No.1 filed the application u/s.33(c)(2) of the Industrial Disputes Act, 1947 (`I.D.

Act, 1947, in short) for recovery of Rs.2,300/- as difference of gratuity. It is contended by learned counsel for the petitioner that this claim of the respondent was not maintainable u/s.33(c)(2) of the I.D. Act, 1947. The learned counsel for the respondent No.1 conceded that the application filed by his client was not maintainable in view of the decision of the Hon'ble Supreme Court. The petition filed by respondent No.1 was not maintainable and as such, the order which has been made by the Labour Court is without jurisdiction. The learned counsel for the respondent states that the amount of difference of gratuity has already been paid to the respondent by the petitioner and as such, acceptance of this Special Civil Application may result in recovery of the said amount. The learned counsel for the petitioner fairly conceded that the petitioner will not recover the amount which has already been paid to the petitioner. On this statement made by the learned counsel for the petitioner, there is no question of any recovery as apprehended by the learned counsel for the respondent No.1.

3. In the result, this Special Civil Application is allowed. The order passed by the Labour Court, Ahmedabad in REG Application No.1551/80 dated 11.8.1983, is quashed and set aside. Rule is made absolute subject to the undertaking given by the learned counsel for the petitioner. No order as to costs.

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(sunil)